



Framing The Issues

Infrastructure Bond

Policy committee hearings continued this week on the Governor's \$222 billion infrastructure proposal and related bond proposals from other members of the Legislature. These policy committee hearings will be followed by hearings of a bond conference committee that will consider all of the various bond proposals. The first meeting of the bond conference committee is an organizational meeting set for February 16. Senator Kevin Murray, who will chair the conference committee, has already sent a message that the bond proposal should be presented to the voters in a single election year rather than tying the hands of the Legislature and future Governors by spreading the bonds out over 5 election cycles in the next ten years as Schwarzenegger proposes.

March 10th, the deadline for placing bonds on the June ballot, is unattainable given the inordinate complexity of the "deal" which must be structured. Housing advocates are meeting daily with the bond conferees, leadership and the administration to urge the inclusion of housing in any bond placed before the voters. The argument that housing is infrastructure is gaining traction.

Regardless of whether the conference committee meets the March deadline, the leadership is focused on structuring a bond deal before the June elections, after which political relationships get dicey and negotiations can break down entirely.

New Land Use Laws

One suggestion that housing advocates in Sacramento hear from folks in the field is that we should do more to publicize new laws so that they are used more frequently. Following are a few useful provisions of law that took effect January 1.

Mark Stivers, staff to Senate Trans and Housing, did excellent work negotiating SB 575 (Torlakson) (Chapter 601, Statutes of 2005) with the cities. That bill adds many new provisions to Anti-Nimby law, including Gov Code 65589.5(d)(5), which provides that if a locality has not identified adequate sites in its housing element, it cannot use "zoning inconsistency" as a reason to deny or condition housing. The law applies to any site (*at any density*) that is designated for: 1) residential uses, or 2) commercial uses on which residential uses are permitted. In a city that has not identified adequate sites, an applicant can propose a 20, 30, 40 unit development, for example, on a single family zoned site, and under Anti-Nimby law the locality cannot use the "zoning inconsistency" excuse to turn down or condition the development.

Assemblymember Jones earns kudos for best land use bill of the year for AB 1233 (Jones), (Chapter 614, Statutes of 2005). That bill adds Section 65584.09 to the Government Code and should substantially increase the sites localities must identify in their housing element law. The law requires that:

- A locality without an HCD-

approved housing element must rezone within one year of the deadline for adoption of the new housing element adequate sites to accommodate any portion of the regional housing need from the previous cycle that the community failed to accommodate in its previous housing element.

- A locality that failed in the prior planning period to implement commitments to rezone land must complete these rezonings within one year of the deadline for adoption of the new housing element.

Finally, density bonus law has been substantially amended in three of the last four years and some exclusionary localities are going to extremes to undercut the law. SB 435 (Hollingsworth) (Chapter 496, Statutes of 2005) amended Government Code 65915 (b)(1) and (g)(5) to end one tactic localities are using, applying affordability restrictions on market rate units awarded pursuant to density bonus law. Some cities have created an endless loop problem, whereby affordability restrictions are placed on density bonus units, which creates an award of more density bonus units to which new affordability requirements apply, ad infinitum. The Cities and Planners seem to agree to what SB 435 clarifies, which is that units awarded pursuant to density bonus law are market rate units and localities cannot impose an endless stream of affordability restrictions on these units. Nevertheless, some cities are ignoring this requirement and other sections of density bonus law. Be vigilant.

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